



Interview with Andy Anstett ¹⁴⁵

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- Andy Anstett

The concern with minority governments, I do not share. Governments passed a lot more legislation, a hell of a lot more happened under minority governments under Pearson from 1963-68. These were some of the most productive periods in Canadian post-war history and people say minority governments are terrible?

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I. INTRODUCTION

Before being elected in 1981, Andy Anstett served as Deputy Clerk and Deputy Electoral Officer in the Manitoba Legislative Assembly for eight years. Very experienced with the procedures of the House, Mr. Anstett served as the Pawley government's House leader and Minister of Municipal Affairs from 1983 to 1986 before being defeated, likely as a result of being thrust to the forefront of the French-language debate. Since then, Mr. Anstett has served in a number of capacities, including Chair of Manitoba's Municipal Board, Chair of Ontario's Assessment Review Board, and currently as Vice President of Corporate Affairs for AEC Valuations Inc. in Toronto.

While a member of the legislative assembly for a relatively brief period, Andy Anstett witnessed and participated in one of the most memorable events in Manitoba's legislative history: the bell-ringing episodes of the French-language debate. He took some time with us to share his memories of this event, his

¹⁴⁵ Interviewed by B. Schwartz (4 October 2002).

insights into other notable events in the legislature, and his views on how procedures in the House can be improved.

II. THE FRENCH LANGUAGE DEBATE

When the French-language issue was brought into the legislature, were you as a backbencher consulted?

Anstett: I was aware, as was all of caucus, that the Bilodeau case was advancing through the judicial process. Cabinet, but not caucus, was more fully briefed on the details of negotiations. But Roland [Penner] had shared information with caucus and with the opposition several times in terms of the status of the negotiations. Roland had ensured that cabinet was regularly briefed, but caucus and the opposition at least knew negotiations were happening. The announcement came in May of 1983. A day or so before, Roland had pulled me aside because he often shared things with me before they went to caucus. My reaction was that this was fantastic. We're showing legislative leadership rather than letting the courts decide this. We were able to put something together which would address the problem in the future rather than just looking back. Roland explained the proposed amendment to me and I was very enthusiastic. Interestingly, I had always been a supporter of legislative supremacy, and like Sterling Lyon had opposed—or at least had reservations about—the *Charter* on those grounds. I always found Sterling's position on FLS [French-language services] inconsistent with the position he took on the *Charter* and his opposition to "judge made law" during the repatriation debates, just a couple years earlier.

After the French-language initiative was introduced, there was obviously some resistance from the opposition; the bell-ringing episodes began. The bells rang for 12 days while the Tories refused to assemble in the Chamber for a vote. Surely, the Speaker, Jim Walding, was under some pressure to intervene and put a stop to the bell ringing. Was your view the speaker had a duty at some point to intervene?

Yes, I don't think there was any question the Speaker had a duty and I urged that on Speaker Walding. As for the reasons why he didn't intervene, I suggest there are three. One of which was associated with his overall approach to the office of Speaker and the baggage he had. There was some antagonism between him and the government, some friction from shortly after his appointment that related to a number of things. He also had this antipathy to abiding by the French-language secretariat rules of correspondence, etc. which was an indication of something much broader. But during the break between the final meeting of the standing committee of privileges and elections which crafted the report which went back to the House when we reconvened in January, I called

Jim Walding at his home and said that as a member of the government caucus who, because of his position as Speaker couldn't attend caucus, I wanted as a courtesy to brief him before we went into the House on the significant changes that were being made in the package. The constitutional amendment was being changed to remove many of the services from the Manitoba Act and put them into Bill 115 and we were attempting to address the concerns we had heard both from the opposition and the public. So I went to Mr. Walding's house and I very succinctly explained what we were doing and he began to challenge me on the merits of those proposals, on the merits of the original proposals, and made it very clear that politically, since I had come to see him not as Speaker but as a member of the government caucus, he thought what we were doing was totally wrong-headed and that the changes we were making wouldn't accomplish anything. I attempted carefully to feel him out on how strongly he felt without raising any inappropriate procedural questions, but I got very negative vibrations from everything I attempted to feel him out on. When it wasn't expressed explicitly, it was certainly there in body language. I came away with a very negative feeling, reported to the Premier that I had done the briefing and that I expected nothing but problems with Jim Walding, as he was fundamentally opposed to what we were doing. It wasn't a question of him being Speaker; he was also strongly opposed to what we were doing.

Would that have been a factor in the final decision of the government to cut bait and not proceed with the final package?

That information was not shared with caucus. I don't recall ever telling caucus or any of my colleagues—I probably told Roland I talked to Walding. I'm not sure if Roland, the Premier and I were the only ones that knew, but I think that's the case.

Did you feel as though the public understood what was contained in the French-language services proposal?

On Saturday morning, 28 January 1984, during the committee stage between second and third reading of Bill 115, which was the legislative component of the French-language services package, a large delegation of my constituents appeared at the legislature and demanded to meet with me to express their opposition to the initiative. I went to meet them in a room adjacent to the committee room during a break in the committee hearing. At this impromptu meeting they demanded a public meeting in my constituency (Springfield) where citizens would have the opportunity to ask questions and receive information about the French-language services package. They were quite insistent I be held to account, and I agreed to take part. About 800 or 900

people showed up at this constituency meeting the next day in Oakbank.¹⁴⁶ At first, I did not receive the warmest welcome. The crowd was full of people hooting and hollering at me and they obviously had already formed an opinion on the French-language services package. The chair of the meeting, who was a Tory business man in the community, did a reasonably good job of quieting the crowd and telling them they were to give me a chance to speak. So I explained the package and the government's reasons for taking this route, and afterwards there were questions from the audience. I treated everyone with respect and by the end of the meeting I was being treated with respect in return. In the end, what started out as a loud boisterous meeting turned into a meeting that ended fairly calmly with more applause than at the beginning some reasonably civil respect for the views I had expressed. People were beginning to see there was another side to the issue, since many people had formed opinions on the French-language package because of what they had heard through the media, through friends or the rumour mill. I don't believe a lot of people left having had their minds changed, but a lot of people left with new information and an understanding there might actually be a legitimate argument on the other side. And that in itself, I felt, made the whole effort worth while. Some of my cabinet and caucus colleagues probably thought I had rocks in my head for even going to such a meeting which was essentially called by the opposition. My view was these people weren't the opposition, they were my constituents and even if the meeting was packed with card carrying Tories, they were still my constituents and I still had an obligation to represent them. So it was actually a successful exercise in that sense.

III. THE DEFEAT OF THE PAWLEY GOVERNMENT

After the French-language debate, the Pawley government is re-elected, and former Speaker Jim Walding now sits as a backbencher member. All of a sudden, Walding pulls the plug on the government. What insight can you give us?

I will tell you what I know, and I will tell you first what I believe. I believe Jim Walding entered into an arrangement with the Progressive Conservative Opposition, that senior members of the Tory party were involved in, as well as members of the Tory caucus. They knew he would be crossing the floor on the budget. I also know a few days before that vote, Al Mackling, Bill Uruski, Len Evans all talked to Jim Walding because of concerns about him possibly voting against the government. Two weeks before the budget vote, there was a

¹⁴⁶ For media coverage of the meeting, see Staff, "Anstett manages to quell concerns" *Winnipeg Sun* (30 January 1984) 3; Staff, "'Resign, resign' shout Anstett's constituents" *Winnipeg Free Press* (30 January 1984) 1; Staff, "Anstett mettle deserves medal" *Winnipeg Sun* (31 January 1984) 12.

provincial council meeting of the NDP. Howard asked me to meet him after the meeting at the Marlborough Hotel for lunch. Why did he want to meet with me? He wanted to extract from me a commitment that if the government was defeated on the budget, I would run in Springfield. Now, if your sources are telling you the NDP was completely surprised, but the Tories knew something was going on, I'm flabbergasted. They were not completely stunned. They may not have known it was going to happen then, but they knew Walding was a loose cannon and at least three members of the NDP caucus plus the Premier had serious enough concerns about the budget vote that four of them talked to Walding, each privately, and the Premier talked to me about ensuring in a swing seat like Springfield, he had a candidate who might have a shot.

So, the government is defeated. Were there procedural issues that were being contemplated at that time?

Howard called me at home that night, said the government's just been defeated. In Howard's mind, although he may have hesitated, I think it was 90 percent clear he had to resign and he had to take the baggage of the defeat with him. The next morning, he resigned. He reported to caucus and it was over.

IV. TOOLS OF OPPOSITION

The NDP has been on both sides of this—they were against MTS as a matter of principle, they saw the Tories oppose French-language services as a matter of principle. Where is the limit as to how much an opposition should stall and resist?

As long as the government is doing something that is within its jurisdiction as government, it is a political decision that is within the mandate of the government and/or the legislative assembly, constitutionally. I am not one of those who subscribes to the view that if you didn't run on it in the last election, you can't introduce the bill. I have never been one to believe that when you did run on something in the election, the reason you won was because of that. So, I don't believe Ed Schreyer had a mandate to introduce public auto insurance because he "won" the largest number of seats. I believe he had a mandate to introduce public auto insurance because he was the leader of the government and had the right to offer to the assembly his proposals for legislation. So, I don't think it's grounds to deny a government the right to introduce legislation by reason of the fact that they don't have an electoral mandate. That was part of the argument the Opposition used against FLS in 1983-84. Gerry Mercier and I got into some very interesting discussions in the House back then about representation theories and about Burke and Locke. Having said that, there is a limit and the limit was crossed by the Tories in 1983-84. I don't think the NDP in the MTS debate in the mid-1990s crossed the line because they weren't

capable of crossing the line. The rules had been sufficiently changed; the vehicles were not available, although one might argue that Speaker Dacquay made rulings that are so fundamentally contrary to established parliamentary practice in Manitoba and elsewhere that the NDP might have been in the position to obstruct for a longer period of time than the Speaker allowed. A case can be made that Speaker Dacquay's behaviour was beyond what is expected of the Speaker in a number of instances. She afforded the government, in a partisan way in my opinion, the opportunity to have legislation pass that the government had every right to see put to a vote finally and ultimately and decided; just as the Pawley government had every right to see its proposals put to a vote and ultimately decided. Where is that line? That's really what your question is. It's not really well defined. I think the line is measured in the media, in the general public, by members of the House themselves, and the measure they are taking when they are measuring this is: has this matter been fully exposed to public debate so everyone understands the implications, the issues, the differences of opinion and the downstream issues? The government has the right to govern. The public has a right and a responsibility to be informed. The opposition, using the rules, can afford the public the opportunity to become informed. And the media, working with the opposition and the government, has an obligation to ensure debate is fully fleshed out. Where the government still believes, despite the public opposition, that its proposals still have merit and requests the assembly to pass them, then there is nothing wrong with that either. But to ride roughshod over the rights of the opposition to deny the opportunity for debate, to deny the exposure through all of the legislative vehicles available, that's where governments fail to abide by what I believe are underlying parliamentary procedural principles that are there to ensure adequate scrutiny of government initiatives.

Opposition parties are increasingly losing all the powers they had. The only power they have is to stall, make a fuss, rally public support. You take those away, they've got nothing. What's your view on that?

In the past Government House leaders generally understood that every time you change the rules, you better think of yourself on the other side. I was asked by Dave Cooke, Bob Rae's House Leader, in 1992 to chat with them about some of the things they were proposing to do with the rules then. Queen's Park was approaching legislative deadlock for a variety of reasons. They were proposing to streamline procedures in a way that would seriously limit the opposition's options and traditional, fundamental rights—not just the procedural stuff. And after reviewing all of them, I said the overall thrust of what you're doing is totally wrong. You shouldn't be doing it. What you need to do is rethink it and decide how much of this you'd be happy to live with if you were in opposition. They didn't like that advice at all. After they left

government, I talked to Dave Cooke, and Dave brought up this discussion we had had and how frustrating it was now that the Harris government was changing the rules and using the precedents they had set to make the rules even worse, even tighter. And they were being hard pressed to critique these further changes because the basic tools Harris was using to hammer through his legislation and rules changes was stuff Cooke had in fact actually introduced.

V. PROPOSALS FOR REFORM

With many of the opposition tools gone, it seems we get to the real issue and that is: why is there so much centralization of power in our parliamentary system? If there is an excess of concentration of power, is parliamentary reform the best way to ease that, or is there any merit to voting system reform?

You know from my personal history that independence of individual members as backbenchers can be given or it can just be taken. I took it. Doing that doesn't change the nature of the system. There are still certain expectations. You can give backbenchers things to do to keep them busy, but if it's not meaningful in terms of the government's overall objectives and governing, then you haven't done much. The introduction of free votes etc., are tools that might lead to more expression of individual will. But I agree with you that parliamentary procedural reform will probably be secondary to electoral reform. As a student, I had a keen interest in electoral reform and today I am a strong supporter of PR [proportional representation]. The concern with minority governments, I do not share. Governments passed a lot more legislation; a hell of a lot more happened under minority governments under Prime Minister Pearson from 1963-68. These were some of the most productive periods in Canadian post-war history and people say minority governments are terrible? So, I don't have the problem with minority governments that some people do. I don't have strong opinions on whether you have a mixed first past the post, or full PR, but I agree there should be a way to ensure minority electoral interests are represented.

There are some provinces like Alberta, Saskatchewan, where you now have to have a plebiscite before you vote on a constitutional resolution. In Manitoba you have to have hearings just like any other piece of legislation. Do you think there should be a public plebiscite before constitutional amendments are voted on?

No. The difficulty with having a blanket requirement for a plebiscite or a binding referendum is many times what we are dealing with in constitutional amendments is minority rights. And I don't believe minority rights should be subjected to majority will. Now, if you ask me if we should have a constitutional referendum or plebiscite on the notion of changing our first past the post system

to proportional representation, I might have less concern. If you ask me if we were to change the Senate by referendum, I might have less concern because that doesn't affect the sensitivities I have about minority rights.

What is it about the legislature that makes it more trustworthy than the broad populous, in dealing with minority rights?

I believe in representative democracy. And I believe that while you don't set out to elect your "betters", you elect someone from amongst yourselves who will, either because you believe this person is better informed, or will become better informed, about affairs of state, be in a position to make decisions you either can't be bothered to make, you don't have enough information to make, or you recognize requires much more time than you are prepared to devote to it. It is information, it's time, and it's even caring about something. We have seen far too often the pendulum swing on public opinion on major issues that are moral issues (abortion, capital punishment). I do not want [these issues] decided on plebiscites or referenda. I don't subscribe to the view that legislators have some greater perception of the right answers or that they know better. Any politician who gets too far out in front of his or her electorate will not be there for too long. What people fail to understand is although that statement is true, it also leaves the other half unstated and that is when politicians believe the polity should be headed in a particular direction, they have an obligation to lead that electorate and move them in that same direction so they are not too far out in front of them. The failure to do that is political cowardice and we see more of that in public life today than we see leadership.